

1 AN ACT in relation to criminal law.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Unified Code of Corrections is amended by
5 changing Section 5-5-3.2 as follows:

6 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

7 Sec. 5-5-3.2. Factors in Aggravation.

8 (a) The following factors shall be accorded weight in
9 favor of imposing a term of imprisonment or may be considered
10 by the court as reasons to impose a more severe sentence
11 under Section 5-8-1:

12 (1) the defendant's conduct caused or threatened
13 serious harm;

14 (2) the defendant received compensation for
15 committing the offense;

16 (3) the defendant has a history of prior
17 delinquency or criminal activity;

18 (4) the defendant, by the duties of his office or
19 by his position, was obliged to prevent the particular
20 offense committed or to bring the offenders committing it
21 to justice;

22 (5) the defendant held public office at the time of
23 the offense, and the offense related to the conduct of
24 that office;

25 (6) the defendant utilized his professional
26 reputation or position in the community to commit the
27 offense, or to afford him an easier means of committing
28 it;

29 (7) the sentence is necessary to deter others from
30 committing the same crime;

31 (8) the defendant committed the offense against a

1 person 60 years of age or older or such person's
2 property;

3 (9) the defendant committed the offense against a
4 person who is physically handicapped or such person's
5 property;

6 (10) by reason of another individual's actual or
7 perceived race, color, creed, religion, ancestry, gender,
8 sexual orientation, physical or mental disability, or
9 national origin, the defendant committed the offense
10 against (i) the person or property of that individual;
11 (ii) the person or property of a person who has an
12 association with, is married to, or has a friendship with
13 the other individual; or (iii) the person or property of
14 a relative (by blood or marriage) of a person described
15 in clause (i) or (ii). For the purposes of this Section,
16 "sexual orientation" means heterosexuality,
17 homosexuality, or bisexuality;

18 (11) the offense took place in a place of worship
19 or on the grounds of a place of worship, immediately
20 prior to, during or immediately following worship
21 services. For purposes of this subparagraph, "place of
22 worship" shall mean any church, synagogue or other
23 building, structure or place used primarily for religious
24 worship;

25 (12) the defendant was convicted of a felony
26 committed while he was released on bail or his own
27 recognizance pending trial for a prior felony and was
28 convicted of such prior felony, or the defendant was
29 convicted of a felony committed while he was serving a
30 period of probation, conditional discharge, or mandatory
31 supervised release under subsection (d) of Section 5-8-1
32 for a prior felony;

33 (13) the defendant committed or attempted to commit
34 a felony while he was wearing a bulletproof vest. For

1 the purposes of this paragraph (13), a bulletproof vest
2 is any device which is designed for the purpose of
3 protecting the wearer from bullets, shot or other lethal
4 projectiles;

5 (14) the defendant held a position of trust or
6 supervision such as, but not limited to, family member as
7 defined in Section 12-12 of the Criminal Code of 1961,
8 teacher, scout leader, baby sitter, or day care worker,
9 in relation to a victim under 18 years of age, and the
10 defendant committed an offense in violation of Section
11 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,
12 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of
13 1961 against that victim;

14 (15) the defendant committed an offense related to
15 the activities of an organized gang. For the purposes of
16 this factor, "organized gang" has the meaning ascribed to
17 it in Section 10 of the Streetgang Terrorism Omnibus
18 Prevention Act;

19 (16) the defendant committed an offense in
20 violation of one of the following Sections while in a
21 school, regardless of the time of day or time of year; on
22 any conveyance owned, leased, or contracted by a school
23 to transport students to or from school or a school
24 related activity; on the real property of a school; or on
25 a public way within 1,000 feet of the real property
26 comprising any school: Section 10-1, 10-2, 10-5, 11-15.1,
27 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1,
28 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1,
29 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of
30 1961;

31 (16.5) the defendant committed an offense in
32 violation of one of the following Sections while in a day
33 care center, regardless of the time of day or time of
34 year; on the real property of a day care center,

1 regardless of the time of day or time of year; or on a
 2 public way within 1,000 feet of the real property
 3 comprising any day care center, regardless of the time of
 4 day or time of year: Section 10-1, 10-2, 10-5, 11-15.1,
 5 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1,
 6 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1,
 7 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of
 8 1961;

9 (17) the defendant committed the offense by reason
 10 of any person's activity as a community policing
 11 volunteer or to prevent any person from engaging in
 12 activity as a community policing volunteer. For the
 13 purpose of this Section, "community policing volunteer"
 14 has the meaning ascribed to it in Section 2-3.5 of the
 15 Criminal Code of 1961;

16 (18) the defendant committed the offense in a
 17 nursing home or on the real property comprising a nursing
 18 home. For the purposes of this paragraph (18), "nursing
 19 home" means a skilled nursing or intermediate long term
 20 care facility that is subject to license by the Illinois
 21 Department of Public Health under the Nursing Home Care
 22 Act; or

23 (19) the defendant was a federally licensed firearm
 24 dealer and was previously convicted of a violation of
 25 subsection (a) of Section 3 of the Firearm Owners
 26 Identification Card Act and has now committed either a
 27 felony violation of the Firearm Owners Identification
 28 Card Act or an act of armed violence while armed with a
 29 firearm; or-

30 (20) the defendant committed the offense against
 31 the person or property of a public officer or public
 32 employee as those terms are defined in Article 2 of the
 33 Criminal Code of 1961:

34 (i) while that officer or employee was engaged

1 in the course of performing his or her official
2 duties;

3 (ii) to prevent that officer or employee from
4 performing his or her official duties; or

5 (iii) in retaliation for that officer or
6 employee having performed his or her official
7 duties.

8 For the purposes of this Section:

9 "School" is defined as a public or private elementary or
10 secondary school, community college, college, or university.

11 "Day care center" means a public or private State
12 certified and licensed day care center as defined in Section
13 2.09 of the Child Care Act of 1969 that displays a sign in
14 plain view stating that the property is a day care center.

15 (b) The following factors may be considered by the court
16 as reasons to impose an extended term sentence under Section
17 5-8-2 upon any offender:

18 (1) When a defendant is convicted of any felony,
19 after having been previously convicted in Illinois or any
20 other jurisdiction of the same or similar class felony or
21 greater class felony, when such conviction has occurred
22 within 10 years after the previous conviction, excluding
23 time spent in custody, and such charges are separately
24 brought and tried and arise out of different series of
25 acts; or

26 (2) When a defendant is convicted of any felony and
27 the court finds that the offense was accompanied by
28 exceptionally brutal or heinous behavior indicative of
29 wanton cruelty; or

30 (3) When a defendant is convicted of voluntary
31 manslaughter, second degree murder, involuntary
32 manslaughter or reckless homicide in which the defendant
33 has been convicted of causing the death of more than one
34 individual; or

1 (4) When a defendant is convicted of any felony
2 committed against:

3 (i) a person under 12 years of age at the time
4 of the offense or such person's property;

5 (ii) a person 60 years of age or older at the
6 time of the offense or such person's property; or

7 (iii) a person physically handicapped at the
8 time of the offense or such person's property; or

9 (5) In the case of a defendant convicted of
10 aggravated criminal sexual assault or criminal sexual
11 assault, when the court finds that aggravated criminal
12 sexual assault or criminal sexual assault was also
13 committed on the same victim by one or more other
14 individuals, and the defendant voluntarily participated
15 in the crime with the knowledge of the participation of
16 the others in the crime, and the commission of the crime
17 was part of a single course of conduct during which there
18 was no substantial change in the nature of the criminal
19 objective; or

20 (6) When a defendant is convicted of any felony and
21 the offense involved any of the following types of
22 specific misconduct committed as part of a ceremony,
23 rite, initiation, observance, performance, practice or
24 activity of any actual or ostensible religious,
25 fraternal, or social group:

26 (i) the brutalizing or torturing of humans or
27 animals;

28 (ii) the theft of human corpses;

29 (iii) the kidnapping of humans;

30 (iv) the desecration of any cemetery,
31 religious, fraternal, business, governmental,
32 educational, or other building or property; or

33 (v) ritualized abuse of a child; or

34 (7) When a defendant is convicted of first degree

1 murder, after having been previously convicted in
2 Illinois of any offense listed under paragraph (c)(2) of
3 Section 5-5-3, when such conviction has occurred within
4 10 years after the previous conviction, excluding time
5 spent in custody, and such charges are separately brought
6 and tried and arise out of different series of acts; or

7 (8) When a defendant is convicted of a felony other
8 than conspiracy and the court finds that the felony was
9 committed under an agreement with 2 or more other persons
10 to commit that offense and the defendant, with respect to
11 the other individuals, occupied a position of organizer,
12 supervisor, financier, or any other position of
13 management or leadership, and the court further finds
14 that the felony committed was related to or in
15 furtherance of the criminal activities of an organized
16 gang or was motivated by the defendant's leadership in an
17 organized gang; or

18 (9) When a defendant is convicted of a felony
19 violation of Section 24-1 of the Criminal Code of 1961
20 and the court finds that the defendant is a member of an
21 organized gang; or

22 (10) When a defendant committed the offense using a
23 firearm with a laser sight attached to it. For purposes
24 of this paragraph (10), "laser sight" has the meaning
25 ascribed to it in Section 24.6-5 of the Criminal Code of
26 1961; or

27 (11) When a defendant who was at least 17 years of
28 age at the time of the commission of the offense is
29 convicted of a felony and has been previously adjudicated
30 a delinquent minor under the Juvenile Court Act of 1987
31 for an act that if committed by an adult would be a Class
32 X or Class 1 felony when the conviction has occurred
33 within 10 years after the previous adjudication,
34 excluding time spent in custody.

1 (b-1) For the purposes of this Section, "organized gang"
2 has the meaning ascribed to it in Section 10 of the Illinois
3 Streetgang Terrorism Omnibus Prevention Act.

4 (c) The court may impose an extended term sentence under
5 Section 5-8-2 upon any offender who was convicted of
6 aggravated criminal sexual assault or predatory criminal
7 sexual assault of a child under subsection (a)(1) of Section
8 12-14.1 of the Criminal Code of 1961 where the victim was
9 under 18 years of age at the time of the commission of the
10 offense.

11 (d) The court may impose an extended term sentence under
12 Section 5-8-2 upon any offender who was convicted of unlawful
13 use of weapons under Section 24-1 of the Criminal Code of
14 1961 for possessing a weapon that is not readily
15 distinguishable as one of the weapons enumerated in Section
16 24-1 of the Criminal Code of 1961.

17 (Source: P.A. 90-14, eff. 7-1-97; 90-651, eff. 1-1-99;
18 90-686, eff. 1-1-99; 91-119, eff. 1-1-00; 91-120, eff.
19 7-15-99; 91-252, eff. 1-1-00; 91-267, eff. 1-1-00; 91-268,
20 eff. 1-1-00; 91-357, eff. 7-29-99; 91-437, eff. 1-1-00;
21 91-696, eff. 4-13-00.)